

HELEN E. REID

IBLA 79-123

Decided February 28, 1979

Appeal from decision of the Nevada State Office, Bureau of Land Management, rejecting oil and gas lease offer N-18475.

Affirmed.

1. Oil and Gas Leases: Applications: 640-acre Limitation

No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation, or where the land is surrounded by lands not available for leasing, and where these circumstances do not exist an offer for less than 640 acres is properly rejected.

2. Oil and Gas Leases: Applications: 640-acre Limitation—Oil and Gas Leases: Lands Subject to—Words and Phrases

"Lands not available for leasing." Under 43 CFR 3110.1-3(a), lands are deemed to be not available for leasing when they are surrounded by lands contained within patents with no oil and gas rights reserved to the United States, when they are segregated from oil and gas leasing by withdrawal, or are embraced within an outstanding lease with an effective issuance date prior to the filing date of the subject offer.

APPEARANCES: Helen E. Reid, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Helen E. Reid appeals from a decision dated December 11, 1978, by the Nevada State Office, Bureau of Land Management (BLM), which

rejected her noncompetitive oil and gas lease offer N-18475 for 400 acres, stating the lands embraced therein described less than 640 acres of available land, as required by 43 CFR 3110.1-3(a).

Appellant's offer to lease the following described lands in Clark County, Nevada, was filed on December 19, 1977:

Township 18 South, Range 71 East, M.D.M.
Section 6: E1/2, E1/2 SW1/4

Appellant contends in her appeal that she falls within the exception to 43 CFR 3110.1-3(a), in that the lands surrounding those offered for lease were not available for leasing under the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1976). Specifically she alleges that as of September 1978 there was no available acreage surrounding the parcel embraced in her offer. Section 32 and part of section 31 she states were embraced in lease N-13139 issued December 1, 1976; section 5 was included in lease N-7899, issued February 1, 1977; and the remaining part of section 6 and part of section 7 were embraced in lease numbers N-2692 and N-16007, respectively.

[1] Considering these contentions we nevertheless find that appellant's offer was defective and properly rejected by BLM. No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation, or where the land is surrounded by lands not available for leasing, and where these circumstances do not exist an offer for less than 640 acres is properly rejected. Duncan Miller, 7 IBLA 169 (1972); Annie Dell Wheatley, 62 I.D. 292 (1955); J. Penrod Toles, 68 I.D. 285, 287 (1961).

[2] Appellant's contentions relate to the meaning of the term "not available for leasing" as contained in 43 CFR 3110.1-3(a). Lands are deemed to be not available for leasing when they are surrounded by lands contained within patents with no oil and gas rights reserved to the United States, Lloyd W. Levi, 19 IBLA 201 (1975); when they are segregated from oil and gas leasing by withdrawal, AA Minerals Corp., 30 IBLA 259 (1977); Stanley M. Edwards, 24 IBLA 12, 83 I.D. 33 (1976); P. T. Farnsworth, Jr., A-25629 (May 31, 1949); or are embraced within an outstanding lease with an effective issuance date prior to the filing date of the subject offer. Curtis D. Wheeler, 31 IBLA 354 (1977).

An oil and gas lease is "issued" on the day it is signed by the authorized officer of the Department of the Interior, although it is not effective, per 43 CFR 3110.1-2, until the first day of the month following its date of issuance. Mobil Oil Corp., 35 IBLA 375, 85 I.D. 225 (1978). Land included in an offer which has not become an issued lease is still available for filing of another offer until the first lease is signed by an authorized officer of BLM.

At the time appellant's offer N-18475 was filed (December 19, 1977), lease N-16007 embracing the surrounding parcel of land contained in section 7 was still an offer. The lease on N-16007 was issued effective March 1, 1978. Therefore, the lands within N-16007 were available for further filing, subject to its first priority for processing, at the time of appellant's offer. 43 CFR 3110.1-6. We therefore find that other adjacent lands were available for leasing, and that appellant's offer to lease was violative of 43 CFR 3110.1-3(a).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Bureau of Land Management is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur.

Joseph W. Goss
Administrative Judge

Edward W. Stuebing
Administrative Judge

